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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/752,184	12/29/2000	Sean M. McCullough	VIGN1220-1	8165
25094	7590	10/08/2004	EXAMINER	
GRAY, CARY, WARE & FREIDENRICH LLP 2000 University Avenue E. Palo Alto, CA 94303-2248			COULTER, KENNETH R	
		ART UNIT	PAPER NUMBER	
		2141		

DATE MAILED: 10/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/752,184	MCCULLOUGH, SEAN M.
	Examiner Kenneth R Coulter	Art Unit 2141

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 30 June 2004.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 6 and 7 is/are allowed.
- 6) Claim(s) 1-5,8-27,29-33 and 35-40 is/are rejected.
- 7) Claim(s) 28,34 and 41 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 12/29/00 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1 – 5, 8 – 27, 29 – 33, and 35 - 40 are rejected under 35 U.S.C. 102(e) as being disclosed by Zilberstein et al. (U.S. Pat. No. 6,606,657) (System and Method for Processing and Presenting Internet Usage Information).

- 2.1 Regarding claim 1, Zilberstein discloses a method of providing information related to activity of a user comprising:

sending a first view request to a first electronic site that is substantially controlled or owned by a first entity (Abstract);

receiving a first view from the first electronic site, wherein the first view substantially corresponds to the first view request (Abstract); and

sending first information related to the first view request to a second entity that is different from the first entity (Abstract “profile information”, “demographic information”).

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2.2 Per claim 2, Zilberstein teaches

sending a second view request to a second electronic site that is substantially owned or controlled by a third entity (Abstract; col. 2, lines 57 - 65);  
receiving a second view from the second electronic site, wherein the second view substantially corresponds to the second view request (Abstract; col. 2, lines 57 - 65);  
and

**not** sending second information related to the second view request to anyone (“demographic information” (Abstract)).

2.3 Regarding claim 3, Zilberstein discloses that the second entity is not an Internet service provider (col. 13, lines 21 - 27).

2.4 Per claim 4, Zilberstein teaches that the first information includes site information related to the first view request, an identifier related to a user, and temporal information related to the first view request (Abstract; col. 2, lines 57 - 65).

2.5 Regarding claim 5, Zilberstein discloses the acts of sending the first view request, receiving the first view, and sending the first information are performed by the user (Abstract; col. 2, lines 57 - 65).

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2.6 Regarding claim 8, Zilberstein discloses accessing at least some of the first information from the second entity, wherein accessing is performed by the user (Abstract; col. 2, lines 57 - 65).

2.7 Per claims 9 – 22, the rejection of claims 1 – 5 and 8 under 35 USC 102(e) (paragraphs 2.1 – 2.6 above) applies fully.

2.8 Regarding claims 23 – 27, 29 – 33, and 35 – 40, the rejection of claims 1 – 5 and 8 under 35 USC 102(e) (paragraphs 2.1 – 2.6 above) applies fully.

### ***Response to Arguments***

3. Applicant's arguments filed 6/30/04 have been fully considered but they are not persuasive.

Applicant argues that Zilberstein only records the new URL and associated user entered information in the central server, not information related to the first request such as a cookie, form data etc. as recited in Claim 1.

Examiner disagrees.

As argued by Applicant, associated user entered information (profile information or demographic information) is recorded in the central server.

The demographic information can be considered to be the information **related** to the first request.

Demographic information is quite often used to alter which web pages are downloaded to a user.

The URL information can be considered to be the information **related** to the first request.

The first request could be URL information entered by the user.

***Allowable Subject Matter***

4. Claims 6 and 7 are allowed.
  
5. Claims 28, 34, and 41 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth R Coulter whose telephone number is 703 305-8447. The examiner can normally be reached on 549.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on 703 305-4003. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

krc

KENNETH R. COULTER  
PRIMARY EXAMINER  
*Kenneth Coulter*